



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: CNL, FF

### Introduction:

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order to cancel the two month Notice to End Tenancy dated May 27, 2018 and setting the end of tenancy for July 31, 2018.
- b. An order to recover the cost of the filing fee.

The tenant failed to appear at the scheduled start of the hearing which was 9:00 a.m. on July 25, 2018. The landlord was present and ready to proceed. I left the teleconference hearing connection open and did not start the hearing until 10 minutes after the scheduled start time in order to enable the tenant to call in. The tenants failed to appear. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I then proceeded with the hearing. The landlord was given a full opportunity to present affirmed testimony, to make submissions and to call witnesses.

On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 2 month Notice to End Tenancy was served on the Tenant by posting on May 27, 2018. The landlord testified that after he posted the Notice he witnessed the tenant removing it from the door. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on landlord. With respect to each of the applicant's claims I find as follows:

### Issues to be Decided:

The issue to be decided is whether the tenant is entitled to an order cancelling the two month Notice to End Tenancy dated May 27, 2018?

### Background and Evidence:

The tenancy began on August 1, 2017 when the tenant and the previous owner entered into a one year fixed term tenancy agreement that provided that the tenancy would end on July 31, 2018. The tenancy agreement provided that the tenant(s) would pay rent of \$2600 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$1300 at the start of the tenancy.

### Grounds for Termination:

The Notice to End Tenancy relies on section 49 of the Residential Tenancy Act. That section provides as follows:

- The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse

### Analysis:

The applicant failed to appear at the hearing.

Rule 7.3 of the Rules of Procedure provides as follows:

**7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The respondent testified that he and his wife intend to move into the rental unit and live there. I order the application of the Tenant to cancel the 2 month Notice to End Tenancy be dismissed without liberty to re-apply. The tenancy shall end on the date set out in the Notice. I also ordered that the application to recover the cost of the filing fee be dismissed without leave to re-apply.

Order for Possession:

The Residential Tenancy Act provides that where an arbitrator has dismissed a tenant's application to cancel a Notice to End Tenancy, the arbitrator must grant an Order for Possession. The landlord used the approved government form. As a result I granted the landlord an Order for Possession. I set the effective date of the Order for Possession for July 31, 2018.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

**This decision is final and binding on the parties.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Residential Tenancy Act.

Dated: July 25, 2018

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Residential Tenancy Branch